IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.137 OF 2004

The Commissioner of Income-Tax,
Mumbai City-II, Mumbai .. Appellant.
V/s.
Anfilco Limited .. Respondent.

Mr.R. Asokan i/b. H.D. Rathod for the appellant.

**CORAM : R.M. LODHA, &**
**J.P. DEVADHAR, JJ.**

**DATED : 20TH DECEMBER, 2004.**

P.C. :

Heard.

2. In the memo of appeal, the following substantial questions of law have been proposed :

1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(A) directing the assessing officer to allow the assessees claim of Rs.1,74,124/- being provision for bonus, even when no evidence was attached to the return filed, which is against the mandate of the provisions of Section 43B ?

2. Whether on the facts and in the circumstances of the case the Tribunal was right in law in confirming the order of the CIT(A) directing the assessing officer to delete the addition of Rs.3,16,536/- made on account of unutilised Modvat Credit ?

3. In so far as proposed question No.2 is concerned, the learned counsel for the revenue fairly

conceded that the said controversy is concluded by the judgment of the Supreme Court in the case of Commissioner of Income Tax V/s. Indo Nippon Chemicals Co. Ltd. (261 ITR 275).

4. As regards question No.1, we find that the Commissioner of Income Tax (Appeals) verified the details and then gave the benefit to the assessee in the sum of Rs.1,74,124/- being provision for bonus. The finding is concluded on facts.

5. No substantial question of law arises in this appeal. The appeal is dismissed in limine.

**(R.M. LODHA, J.)**

**(J.P. DEVADHAR, J.)**